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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,017	12/08/2005	Karl Pfahler	095309.56028US	9291

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EXAMINER	
EDELL, JOSEPH F	
ART UNIT	**PAPER NUMBER**
3636	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/528,017	PFAHLER ET AL.	
	Examiner	Art Unit	
	JOSEPH F. EDELL	3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 May 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *4-9* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *4-9* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 28 May 2009 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 4-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over PCT Publication No. WO 03/051666 A1 to Huo et al. in view of U.S. Patent No. 3,770,318 to Fenton.

Huo et al. discloses a cushion that is basically the same as that recited in claims 4-9 except that the foam lacks each longitudinally extending groove intersecting a plurality of transversely extending grooves where each transversely extending groove intersecting a plurality of longitudinally extending grooves, as recited in the claims. See

Figures 1 and 3 of Huo et al. for the teaching that the cushion has a cushion core 4 made of a foam material, an air-permeable and moisture-permeable covering layer 7,32,33,34 by which the cushion core is lined and including a support 33,34 made of foam and an air-permeable lining 7 stretching across the support, a set of longitudinally extending grooves (along longitudinal portions of ducts 18,19) formed in the surface of the cushion core that open toward the covering layer, a set of transversely extending grooves (along transverse portions of ducts 18,19) formed in the surface of the cushion core that open toward the covering layer, groove intersecting points formed from the intersection of some longitudinally extending grooves with transversely extending grooves, channels 9,22 passing through an entire core thickness of the cushion core, a first end of each channel opening into the longitudinally and transversely extending grooves at the groove intersection points, a second end of each channel opening out freely on an outer face of the cushion core directed away from the grooves, a miniature fan 12,17 that sucks air in from an area surrounding the cushion to provide air flow out through the second ends of at least some of the channels, a mouth positioned in an intersection area of one of the longitudinal grooves and one of the transverse grooves, and at least one shaft 9 in the cushion core open on an outer face of the cushion core directed away from the network of grooves wherein the fan is disposed in the shaft extending through the cushion core, and the fan is arranged in the shaft.

Huo et al. do not teach the longitudinally and transversely extending groove configuration where each of the longitudinally extending grooves intersect a plurality of the transversely extending grooves and each of the transversely extending grooves

intersect a plurality of the longitudinally extending grooves so as to form, together with the set of longitudinally extending grooves, the groove intersection points. Fenton teaches a cushion that has reticulated foam 30 (see Figs. 1 & 2) including longitudinally extending grooves and transversely extending grooves where each of the longitudinally extending grooves intersect a plurality of the transversely extending grooves and each of the transversely extending grooves intersect a plurality of the longitudinally extending grooves so as to form, together with the set of longitudinally extending grooves, the groove intersection points. Because both Huo et al. and Fenton teach longitudinally and transversely extending groove configurations, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute one configuration for the other to achieve the predictable result of roughly uniform and ventilation distribution on the cushion.

Please note that Examiner reasonably interprets “rubberized hair” as being foam.

Claims 4-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,866,800 to Bedford in view of U.S. Patent No. 6,179,706 B1 to Yoshinori et al. and Fenton.

Bedford discloses a cushion that is basically the same as that recited in claims 4-9 except that the cushion lacks sets of grooves and a covering layer, as recited in the claims. See Figures 1-3 of Bedford for the teaching that the cushion has a cushion core 11,13 made of a foam material, grooves formed by valley 19 defined between the cushion and the covering layer, channels 23 passing through an entire core thickness of the cushion core, a first end of each channel opening into the grooves, a second end of

each channel opening out freely on an outer face of the cushion core directed away from the grooves, a miniature fan 27 that sucks air in from an area surrounding the cushion to provide air flow out through the second ends of at least some of the channels, and at least one shaft (near cutout 25) in the cushion core opening out into the grooves and open on an outer face of the cushion core directed away from the grooves wherein the fan is disposed in a shaft extending through the cushion core.

Yoshinori et al. show a cushion similar to that of Bedford wherein the cushion has a cushion core 8 (see Fig. 1), an air-permeable and moisture-permeable covering layer 9,10 which the cushion core is lined, a mouth positioned in an intersection area of one of the longitudinal grooves and one of the transverse grooves, a support 9 of the covering layer made of foam, and an air-permeable lining stretching across the support 10. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cushion of Bedford to include an air-permeable and moisture-permeable covering layer which the cushion core is lined and having a support made of reticulated foam and an air-permeable lining stretching across the support wherein a mouth is positioned in an intersection area of one of the longitudinal grooves and one of the transverse grooves, such as the cushion disclosed by Yoshinori et al. One would have been motivated to make such a modification in view of the suggestion in Yoshinori et al. that the network of grooves immediately provides cooling comfort with less air loss via interconnected passages, and in view of the knowledge generally available to one skilled in the art that a covering layer provides an aesthetically pleasing and comfortable seating arrangement.

Bedford does not teach the longitudinally and transversely extending groove configuration where each of the longitudinally extending grooves intersect a plurality of the transversely extending grooves and each of the transversely extending grooves intersect a plurality of the longitudinally extending grooves so as to form, together with the set of longitudinally extending grooves, the groove intersection points. Fenton teaches a cushion that has reticulated foam 30 (see Figs. 1 & 2) including longitudinally extending grooves and transversely extending grooves where each of the longitudinally extending grooves intersect a plurality of the transversely extending grooves and each of the transversely extending grooves intersect a plurality of the longitudinally extending grooves so as to form, together with the set of longitudinally extending grooves, the groove intersection points. Because both Bedford and Fenton teach longitudinally and transversely extending groove configurations, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute one configuration for the other to achieve the predictable result of roughly uniform and ventilation distribution on the cushion.

Claims 4-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,196,627 B1 to Faust et al. in view of Fenton.

Faust et al. disclose a cushion that is basically the same as that recited in claims 4-9 except that the cushion lacks sets of grooves, as recited in the claims. See Figures 1 and 1A of Faust et al. for the teaching that the cushion has a cushion core 22 made of a foam material, an air-permeable and moisture-permeable covering layer lining the cushion core and including a support 23,24,26 made of reticulated foam and an air-

permeable lining 25 stretching across the support, passages in layer 23 defined between the cushion and the covering layer, channels 30 passing through an entire core thickness of the cushion core, a first end of each channel opening into the passages, a second end of each channel opening out freely on an outer face of the cushion core directed away from the channels, a miniature fan 29 that sucks air in from an area surrounding the cushion to provide air flow out through the second ends of at least some of the channels, at least one shaft 32 in the cushion core opening out into the grooves and open on an outer face of the cushion core directed away from the grooves, and the fan is disposed in the shaft extending through the cushion core.

Fenton shows a cushion similar to that of Faust et al. wherein the cushion that has reticulate foam 30 (see Figs. 1 & 2) including longitudinally extending grooves and transversely extending grooves where each of the longitudinally extending grooves intersect a plurality of the transversely extending grooves and each of the transversely extending grooves intersect a plurality of the longitudinally extending grooves so as to form, together with the set of longitudinally extending grooves, the groove intersection points. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cushion of Faust et al. to include reticulated foam having longitudinally extending grooves and transversely extending grooves where each of the longitudinally extending grooves intersect a plurality of the transversely extending grooves and each of the transversely extending grooves intersect a plurality of the longitudinally extending grooves so as to form, together with the set of longitudinally extending grooves, the groove intersection points, such as the

cushion disclosed by Fenton. One would have been motivated to make such a modification in view of the suggestion in Fenton that the network of grooves immediately provides roughly uniform and ventilation distribution on the cushion.

Response to Arguments

Applicant's arguments with respect to claims 4-9 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Joseph F Edell/
Primary Examiner, Art Unit 3636
June 18, 2009